WILLARS et al
Serial No. 10/068,000

Atty Dkt: 2380-601
Art Unit: 2683

REMARKS/ARGUMENTS

Favorable reconsideration of the pending claims is respectfully requested. As matters now stand, claims 1-2, 18-22, 38-42, 58-59 and 75-78 are rejected under 35 USC §102(e) as being anticipated by U.S. Patent 6,212,390 to Rune. Claims 3, 23, 43 and 60 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 6,212,390 to Rune in view of U.S. Patent 6,438,375 to Muller. Claims 4-5, 8, 10, 13-14, 17, 24-25, 28, 30, 33-34, 37, 44-45, 48, 53-54, 57, 61-62, 65, 67, 70-71 and 74 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 6,212,390 to Rune in view of U.S. Patent 6,230,017 to Anderson et al. Claims 12, 32, 52 and 69 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 6,212,390 to Rune in view of U.S. Patent 6,230,017 to Anderson et al and further in view of U.S. Patent 6,438,375 to Muller.

All prior art rejections are respectfully traversed for at least the following reasons.

Applicants have previously pointed out that Applicants' independent claims 1, 21, 41, and 48 all refer to the ability of a *first* operator network to rejected attempted utilization, by a user equipment unit which subscribes to a *second* operator network, of a restricted cell of the first operator network for which the second operator network has a competing cell. Independent claims 1, 21, and 41 further specify that the first operator network does have cells which are eligible for use by the user equipment unit, even though the user equipment unit subscribes to the second operator network and is in the connected mode. Independent claim 75 pertains to a mobile terminal which subscribes to a native network and which, in a connected mode and prior to cell reselection to a target cell, checks whether the target cell is a restricted cell, the restricted cell being both operated by a foreign operator network and competing with a cell operated by the native operator network.

Applicants have also previously explained that Rune essentially teaches that a service provider 50 may have a "restricted mobility area" (col. 5, lines 61+) or service area (10:31+). Rune's "area" (whether restricted or serviced) is contemplated relative to the service provider's *own* subscribers (*see*, e.g., 7:25 – 7:28; 7:66 – 8:4; 8:19 – 8:24; 8:31 +; 8:47+). Even in a situation in which Rune has three core service networks using the same access network (which is a different situation from three access providers), Rune's test for access is whether the subscriber is attempting access from the area covered by the particular core network to which the subscriber belongs (9:26-9:36).

In view of the foregoing, Applicants have argued that Rune clearly does not teach a subscriber of network B having access to some cells of network A, except cells of network A for which network B has competing cells.

The Final Office Action has disagreed with Applicants' argument, alleging that Rune's Fig. 2 shows two networks 120 (alleged to be the first operator network and the second operator network) having competing base cells (allegedly base stations 130). The Final Office Action argues that the previous rejection is proper in view of this "broadest reasonable interpretation".

The "interpretation" of the Final Office Action is not reasonable at all, but erroneous and contrary to the basic structure of a wideband CDMA network. In Rune Fig. 2, there are two RNCSs (radio network control nodes) 120 which belong to the same GRAN network. *See*, e.g., col. 2, lines 28 – 67, wherein the GRAN network 60 is repeatedly characterized as a single cellular network accessible through one or more access ports, i.e., the RANs 120 (*see*, e.g., col. 2, lines 28 – 32).

The person skilled in the art would not consider the two RANs 120 of the network 60 to constitute two networks in the sense of Applicants' claims, particularly since it is

apparent from Applicants' claims that Applicants' networks have subscribers. It is clear that Rune's GRAN network 60 has NO subscribers (see, e.g., col. 2, line 50), so the GRAN network 60 under the vertical line of Rune Fig. 2 cannot be the claimed operator networks. Accordingly, Applicants reiterate their previous arguments and request that Rune is NOT an anticipation of Applicants' claims.

The undersigned apologizes for a typographical error in previous remarks wherein the undersigned incorrectly stated that "The present application was filed *before* November 29, 1999". As the Final Office Action has properly pointed out, the present application was filed on February 8, 2002, *after* the November 29, 1999. Indeed, the undersigned meant previously to state that present application was filed *after* November 29, 1999, and by virtue of being filed *after* November 29, 1999 invokes 35 USC §103(c). The import of 35 USC §103(c) is that commonly owned §102(e) prior art under does not preclude patentability under §103(a).

All references applied in Final Office Action constitute 102(e) prior art, keeping in mind the Applicants' April 6, 1999 parent filing date, among other priority dates claimed. Therefore, any prior art rejections formulated under 35 USC §103(a) using the applied commonly owned references must also be withdrawn.

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

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Respectfully submitted,

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